

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

<b>MILDRED W. FINCH, <i>et al.</i>,</b>	)	<b>CASE NO. 1:02 CV 132</b>
	)	
<b>Plaintiffs,</b>	)	
	)	<b>JUDGE SANDRA S. BECKWITH</b>
<b>vs.</b>	)	
	)	
<b>GEORGE FIORINI, DBA FIORINI</b>	)	<b>RESPONSE OF DEFENDANT</b>
<b>AGENCY, <i>et al.</i>,</b>	)	<b>SANITEC, LTD. TO THE</b>
	)	<b>JANUARY 16, 2004 SHOW CAUSE</b>
<b>Defendants.</b>	)	<b>ORDER</b>

On January 12, 2004, plaintiffs (“Finch”) filed a document with this Court (Docket No. 95) that called into question whether attorneys Dan Makee of McDonald Hopkins Co., LPA, and Richard J. Oparil of Patton Boggs LLP (collectively referred to as “Patton Boggs”) represent defendant, Sanitec, Ltd. (“Limited”). Finch based her allegations upon a filing made by the law firm Goodman Weiss Miller LLP (“Goodman”) in the case pending in U.S. District Court for the Northern District of Ohio, captioned *Sanitec West, et al. v. Delloiacovo*, Case No. 1:02 CV 1582 (Nugent, J.). A copy of that filing, in which Goodman purported to enter an appearance for Limited and objected to Patton Boggs’ appearance, is attached hereto as Ex. 1.

On January 16, 2004, this Court ordered attorneys Makee and Oparil to show cause by February 6, 2004, why Limited's motion to dismiss Finch's Second Amended Complaint (Docket No. 88) should not be stricken. (Docket No. 96).

It is undisputed that Limited is owned by Sanitec Worldwide, Ltd. (“Worldwide”), which is in turn owned 51% by Windsor Holdings, LLC (“Windsor”) and 49% by Salem Associates, Inc. (“Salem”). As Goodman told Judge Nugent in its filing, the “area of contention lies in the ownership of Windsor Holdings.” (Ex. 1 at 2).

On February 2, 2004, Patton Boggs filed its opposition to Goodman's objections and cross moved to strike Goodman's notice of appearance. (Ex. 2). The evidence set forth in that opposition, which Patton Boggs incorporates here by reference, demonstrates that James R. Harkess owns Windsor, and thus indirectly controls Limited. On that same date, Goodman filed a brief and exhibits in support of its objections. (Ex. 3). While Patton Boggs has not yet filed Limited's response, Goodman's position has no basis in fact and is contrary to California law. As a supplement, Patton Boggs will provide this Court with a copy of its response to Goodman's February 2, 2004 brief when it is filed in the Northern District.

It must also be noted that, unlike the case pending before Judge Nugent, Goodman has not entered an appearance or objected to Patton Boggs' representation in this action. Patton Boggs properly filed the motion to dismiss on Limited's behalf.

For the foregoing reasons, Limited's motion to dismiss Finch's Second Amended Complaint should not be stricken by this Court.

Respectfully submitted,

/s/ Dan L. Makee  
 DAN L. MAKEE (0029602)  
 Trial Attorney  
 McDonald Hopkins Co., LPA  
 2100 Bank One Center, 600 Superior Avenue, East  
 Cleveland, Ohio 44114-2653  
 Telephone: (216) 348-5400  
 Facsimile: (216) 348-5474  
 E-Mail: [dmakee@mcdonaldhopkins.com](mailto:dmakee@mcdonaldhopkins.com)

OF COUNSEL:

/s/ Richard J. Oparil  
 RICHARD J. OPARIL (D.C. Bar No. 409723)  
 Admitted Pro Hac Vice (11/19/03)  
 Patton Boggs LLP  
 2550 M Street, N.W.  
 Washington, DC 20037-1350  
 Telephone: (202) 457-6000  
 Facsimile: (202) 457-6315  
 E-Mail: [roparil@pattonboggs.com](mailto:roparil@pattonboggs.com)

Attorneys for Defendant Sanitec, Ltd.

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing Response Of Defendant Sanitec, Ltd. To The January 16, 2004 Show Cause Order was filed electronically with this Court on this 6<sup>th</sup> day of February, 2004. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Dan L. Makee

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DAN L. MAKEE (0029602)  
McDonald Hopkins Co., LPA  
2100 Bank One Center  
600 Superior Avenue, East  
Cleveland, Ohio 44114-2653  
Telephone: (216) 348-5400  
Facsimile: (216) 348-5474  
E-Mail: dmakee@mcdonalddhopkins.com